

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JEROME CISSON,

Plaintiff,

v.

**9:09-CV-260
(FJS/GHL)**

**DANIEL MIDDAUGH, Sheriff, Oneida County;
EDNA HOBBIE, Oneida Correctional Facility;
and ONEIDA COUNTY,**

Defendants.

APPEARANCES

JEROME CISSON

08-B-3744

Clinton Correctional Facility
P.O. Box 2001
Dannemora, New York 12929
Plaintiff *pro se*

SCULLIN, Senior Judge

ORDER

Currently before the Court is Plaintiff Jerome Cisson's amended complaint. *See* Dkt. No. 12. Plaintiff filed his amended complaint as of right pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, which provides that a party may amend his pleading "once as a matter of course . . . before being served with a responsive pleading." Fed. R. Civ. P. 15(a).

In his amended complaint, Plaintiff alleges that, while incarcerated at Oneida County Correctional Facility, Defendants denied him access to the courts in violation of his constitutional rights. *See* Dkt. No. 12. The amended complaint is substantially similar in substance to Plaintiff's original complaint, albeit better organized. Plaintiff does not, however,

include Oneida County as a Defendant. Therefore, the Court dismisses Oneida County as a defendant in this action.¹ Furthermore, the Court accepts Plaintiff's amended complaint for filing.

Accordingly, the Court hereby

ORDERS that the amended complaint, *see* Dkt. No. 12, shall supersede and replace *in toto* the original complaint that Plaintiff filed in this action; and the Court further

ORDERS that Oneida County is **DISMISSED** as a defendant in this action; and the Court further

ORDERS that the Clerk of the Court shall issue summonses and forward them, along with copies of the amended complaint, to the United States Marshal for service on Defendants, together with a copy of this Order. The Clerk of the Court shall also forward a copy of the summons and amended complaint by mail to the Oneida County Attorney, together with a copy of this Order; and the Court further

ORDERS that Defendants or their counsel shall file a formal response to Plaintiff's amended complaint as provided for in Rule 12 of the Federal Rules of Civil Procedure; and the Court further

¹ In an abundance of caution in light of Plaintiff's *pro se* status, Magistrate Judge Lowe directed the Clerk of the Court to add Oneida County as a Defendant because Plaintiff had indicated in his original complaint that he held the Oneida County Sheriff's Department responsible for Defendant Hobbie's actions. *See* Dkt. No. 1 at 3. However, based on the allegations contained in the amended complaint, it is clear that Plaintiff did not intend to include Oneida County as a defendant.

ORDERS that the Clerk of the Court shall serve a copy of this Order on Plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: April 26, 2009
Syracuse, New York


Frederick J. Scullin, Jr.
Senior United States District Court Judge